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C O N F I D E N T I A L SECTION 01 OF 06 JAKARTA 012254

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DEPT FOR EAP/MTS AND EB/IFD/ODF
AID FOR ANE/ESA-CAVITT
TREASURY FOR IA-SEARLS
DOJ FOR CRIM AAG BRUCE SWARTZ
DOJ FOR ICITAP JONES
DOJ FOR OPDAT ALENDRE, EHRENSTAMM, LEHMANN

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SUBJECT: INDONESIA'S ANTI-CORRUPTION EFFORTS CONTINUE TO TAKE ROUTE

REF: A. A) JAKARTA 3490
[B.](#) B) JAKARTA 4520
[C.](#) C) JAKARTA 7941

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Classified By: CLASSIFIED BY FINANCE AND DEVELOPMENT OFFICER RUTH M. HALL FOR REASONS 1.4 B AND D

[¶](#)1. (C) Summary. President Susilo Bambang Yudhoyono, s (SBY) multi-faceted anti-corruption efforts continue to make progress in Indonesia. SBY has thrown his political support behind successful reformers and other anti-corruption "champions", has permitted prosecutions against senior Government of Indonesia (GOI) officials to go forward (ref A), and has replaced corrupt officials with clean reformers. Successful prosecutions of high-ranking officials, such as the former Minister of Religious Affairs, are having a noticeable deterrent effect on the bureaucracy. The media, NGOs and religious leaders are playing an increasingly active and constructive role in opposing and exposing corruption. Although broad-based civil service reform is not moving forward, impressive reform programs are underway in the Ministry of Finance, the police and other institutions that should reduce perceptions of corruption over the medium term. Parliament has helped a bit by passing whistleblower legislation and ratifying the United Nations Convention Against Corruption. Less positively, progress against corruption is much more halting in the military, the courts, many local governments, and Parliament itself. More prevention is also needed such as codes of conduct, procurement guidelines, and standard operating procedures. The bottom line is that while acts of corruption remain ubiquitous in Indonesia, SBY has catalyzed a reform process that is changing the rules of the game to a more open and transparent system of governance. As one long time expat in Indonesia noted, "For the first time, the good guys are winning." End Summary.

SBY,s Misunderstood Anti-Corruption Campaign

[¶](#)2. (C) SBY is directing his signature anti-corruption campaign without a tightly organized system to root

corruption out of Indonesia's public sector. His small presidential staff contains no governance experts, and as in other areas of reform, there are few mechanisms for forcing change from the President's office onto a resistant bureaucracy. Among the Jakarta elite, SBY probably has more enemies than friends when it comes to cleaning up corruption because almost nobody's hands are completely clean. In this difficult political and institutional environment, rather than mount a frontal assault on corruption, SBY has used the presidency's limited powers to directly or indirectly facilitate a large number of only partially coordinated anti-corruption initiatives.

¶13. (SBU) Since his creation of the Interagency Corruption Eradication Team (ICET) in November 2005, SBY has taken few notable policy decisions relating to corruption and has signed only two modest pieces of anti-corruption legislation into law (see paras 8-10). The World Bank believes three new laws -- on freedom of information, government procurement and a national ombudsman -- along with amendments to three existing laws -- on the Anti-Corruption Commission (KPK), tax administration and the Judicial Commission -- are needed to complete the legal framework for long-term anti-corruption efforts. Nonetheless, SBY has used a range of strategies to make significant progress on corruption, and the leading Indonesian anti-corruption NGO told us flatly that, "SBY is much better than his predecessor at putting some real substance behind anti-corruption efforts." His success has raised expectations among ordinary Indonesians about the importance of reducing corruption, raising pressure on individuals and institutions to act. There is a clear sense that, while no one is about to declare Indonesia a corruption-free society, and much of the public complains that reforms are moving too slowly, the rules of the game are changing and cannot be ignored. Key SBY anti-corruption strategies include:

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--SBY has led effectively by example, maintaining high standards of personal integrity and avoiding any hint of personal corruption. However, some rumors about the appropriateness of First Lady Kristiani Herawati Susilo's business activities have surfaced (Ref C).

--SBY continues to use the presidential bully pulpit effectively to emphasize his commitment to corruption and praise reforms, keeping the issue high on the political agenda.

--SBY continues to replace corrupt senior officials with reformers with clean reputations. Noteworthy examples include new police chief Sutanto, the new head of state-owned oil company Pertamina Ari Soemarno, and new Director General for Taxation Darmin Nasution.

--SBY has supported strongly the GOI's more courageous anti-corruption reformers, especially Finance Minister Sri Mulyani Indrawati. In a meeting at the State Palace on August 28, he listed three other prominent figures -- Attorney General Abdul Rahman Shaleh, National Police chief Gen. Sutanto and Anti-Corruption Commission (KPK) Deputy Chairman Erry Riyana Hardjapamengkas -- as anticorruption "champions."

--Perhaps most importantly, SBY has granted permission for ICET investigations and prosecutions of high-ranking officials to proceed, especially of provincial governors, regents, and members of regional consultative assemblies.

¶14. (SBU) In this environment of strong, if indirect, support from the President, the GOI's efforts to prosecute corruption cases continue to bear fruit, creating a deterrent effect. Since we transmitted Ref A, the KPK and ICET have won convictions on corruption charges of the former Chairman of the Investment Coordinating Board, a prominent Jakarta

judge, several senior officials of state-owned enterprises, an Indonesian diplomat, and a former police brigadier general. Many more central and local government officials are under investigation, including 39 former Bali MPs. One sour note has been SBY's reported decision to intervene in the case of eight suspected embezzlers of Bank Indonesia Liquidity Assistance (BLBI) funds during the 1997-98 financial crisis. According to press reports, SBY urged authorities to grant the eight more leniency on the condition that they repay their debts.

IMPORTANT ROLE FOR NGOS, MEDIA, RELIGIOUS LEADERS

15. (SBU) Non-governmental and civil society organizations, the media, and religious leaders continue to keep the anti-corruption issue in the public eye. Indonesia Corruption Watch (ICW), a leading non-governmental organization (NGO) told us that over 90% of corruption cases are exposed by NGOs and local media. Dozens of NGOs such as Transparency International function at the national and regional level. In North Sumatra, for example, the NGO "People's Information Center" (LIRA) uncovered misappropriation of scholarship funds at the University of North Sumatra.

16. (SBU) Press coverage of corruption issues in Jakarta remains vigorous, with corruption cases making the front pages regularly. Recent cases that have attracted widespread press attention include alleged corruption in the Aceh Reconstruction Agency (BRR), the alleged involvement of Justice and Human Rights Minister Hamid Awaluddin in the general election commission procurement scandal, and corruption in state-owned Bank Negara Indonesia. Many papers conduct investigative reporting and follow the stories diligently from the beginning until those involved are sentenced. Others are not always as thorough and fail to dig deeply or follow up once they have brought problems to light.

A prominent Surabaya media watcher told us he believes most reporters lack the skills, resources and time necessary to

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conduct truly independent reporting on corruption and its impacts.

17. (C) A noteworthy recent development has been the decision by Indonesia's two largest Muslim organizations, Nahdlatul Ulama (NU) and Muhammadiyah, to lend their voices to the fight against corruption. The two organizations have publicly stated that Islam must be one of the tools to fight Indonesia's rampant corruption. In July 2006, the two organizations jointly launched books on the jurisprudence of corruption from the Islamic perspective. NU and Muhammadiyah leaders believe that many Muslims do not see corruption as one of the major sins, a view NU is trying to change. Muhammadiyah adds that embezzlers should face more severe punishment. Some religious commentators note that the new NU and Muhammadiyah books are a good first step but that the message needs to find a broader audience. Others remain skeptical, observing that plenty of religious leaders are involved in corruption themselves.

Whistleblower Law and UN Anti-Corruption Convention

18. (SBU) Over the past year, Parliament has passed several modest pieces of legislation strengthening Indonesia's legal regime against corruption. In August 2006, SBY signed into law new whistleblower legislation, known as the "Witness and Victim Protection Bill." While the new legislation is not comprehensive, it is a positive step. The law consists of five key elements:

- Criteria for defining witnesses and victims;
- Outlining the type of protection and assistance;
- Creation of a Witness Protection Agency;

- Terms, conditions and procedures of witness protection;
- Punishment for those who intimidate or threaten whistleblowers.

The law establishes a new, independent "Witness Protection Agency" (Indonesian acronym LPSK) to be headed by seven members from various institutions including the National Commission for Human Rights, the police, the Attorney General's Office, the Department of Justice and Human Rights, universities and NGOs.

¶9. (SBU) NGOs contacts, however, note the law grants inadequate protection from threats, intimidation and retaliation against whistleblowers. Whistleblowers receive testimonial immunity only and not any personal and family protection, creating a disincentive for witnesses of corrupt acts to come forward. Furthermore, the law fails to give prosecutors the discretion to reduce or drop charges against a whistleblower involved in a corrupt act even if he/she exposes a larger case, although a judge can reduce the sentence. An anti-corruption advisor at the Partnership for Governance Reform, wrote in a recent editorial that, "whistleblowers still lack comprehensive legal protection, with the only realistic option for avoiding defamation suits and retaliation being the anonymity of reports as guaranteed by the Anti-Corruption Commission (KPK)."

¶10. (U) Indonesia also signed the United Nations (UN) Convention Against Corruption in December 2003 and ratified it in March 2006. The convention should give Indonesia access to UN resources to assist it in strengthening its efforts against corruption. In addition, the head of the UN's Global Program Against Corruption has suggested the convention could be a tool to bring more coherence to Indonesia's anti-corruption efforts and legislation.

Bureaucratic Reform: Pockets of Progress

¶11. (SBU) A strong consensus exists among governance experts and anti-corruption advocates in Indonesia that, notwithstanding the GOI's prosecutorial successes to date, comprehensive civil service reform will be essential to permanently reduce the level of corruption in Indonesia. An

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anti-corruption advisor at the Partnership for Governance Reform, noted that the most urgent reform to prevent corruption is to reform the way public institutions are organized and staffed, as well as the way civil servants are recruited, trained, paid and promoted to improve performance and to increase transparency, accountability and efficiency.

¶12. (C) Despite this imperative, the SBY Administration has moved extremely cautiously on plans for a "big bang" civil service reform, choosing instead to make incremental changes to improve bureaucratic performance, such as the 19% wage increase contained in the draft FY 2007 budget. The GOI lacks codes of conduct or procurement guidelines for public officials and ministries have weak inspectors general. Local governments still lack procedures for transparent procurement and monitoring of spending. Conflicts of interest remain pervasive as government officials in the six-million strong civil service "moonlight" with outside jobs. Senior officials sometimes serve on the boards of state-owned and private enterprises, with which they may have a connection in their official duties. The Clean Government Law (Law 28/1999) and Presidential Instruction 5/2004 require the submission of wealth reports by top public officials. Of the 111,000 required, the KPK has received about 56% as of mid-2006. As of late 2005, it had only audited 1% of these but has devoted more staff to the task and announced 80 probes in September.

¶13. (C) Although government-wide reform programs are progressing very slowly, internal reforms at several

ministries, agencies, or SOEs with important governance roles are picking up steam. Given the importance of these institutions to the functioning of the judicial system, or the GOI's financial management, these reforms in and of themselves have the potential to significantly improve public perceptions of corruption in Indonesia.

--Ministry of Finance: The Ministry of Finance had launched several important reforms, reorganizing internally for greater efficiency; improving capital markets supervision, debt management, and budget and expenditure planning; and appointing new Directors General for tax and customs (in April 2006). Tax administration, previously one of the most notoriously corrupt institutions in Indonesia, is undergoing real change with a tax modernization team and reform-minded leadership.

--Attorney General,s Office: Attorney General Abdul Rahman Saleh continues to push for reforms that aim to strengthen the integrity of the public prosecution service. On September 5, Saleh publicly announced the release of a report detailing the current state of administrative reform at the Attorney General,s Office (AGO). In his speech, Saleh announced the creation of a standing "Reform Team" composed of senior prosecutors, academicians, and NGOs. Among other things, the team will oversee efforts to revise the dismissal code, create a prosecutors, code of conduct, and issue new guidelines concerning prosecutor recruitment and career development.

--Police: President Yudhoyono created a Police Commission in June 2006 to advise him on police-related issues, and the GOI increased funding for the police by 16% in 2006 and 18% for 2007. Assistance from the U.S. and Australia has helped the 420,000-strong police force meet its structural and institutional challenges. One result is that the Divisions of Profession (CID) and Security (Propam) have agreed to share resources, improve operational cooperation and better define the process of investigating complaints. Police Chief Sutanto, appointed in July 2005, remains perhaps Indonesia,s most effective anti-corruption reformer, and has received multiple threats from those opposed to his tactics. Sutanto has dismissed the heads of at least two provincial police forces for misconduct.

--Pertamina: Even Indonesia,s most corrupt SOE is getting into the anti-corruption act. Pertamina has hired the consulting firm McKinsey to do a top-to-bottom assessment of

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its business operations, including internal controls. A number of energy industry contacts have told us that new Pertamina President Director Ari Soemarno is strongly committed to reducing corruption at the company and improving performance.

Problem Spots Remain

¶14. (C) Other important Indonesian institutions have made little or no progress in reducing corruption, a fact that reflects the limits on SBY,s political authority. Neither the KPK nor ICET has yet to investigate or prosecute a senior military officer, and we are unaware of any serious internal TNI anti-corruption campaign. Similarly, although Parliament has passed some anti-corruption legislation, rent-seeking and bribery in the body remain alive and well. A number of reliable Embassy contacts have told us that demands from the DPR for more than \$1 million in under-the-table payments are the root cause behind delays in the passage of the draft tax law amendments and investment law.

¶15. (C) The situation in the judicial system is little better. In public opinion surveys, the court system routinely receives the lowest marks among all Indonesian institutions for its perceived level of corruption.

However, reforming the courts is complex because they do not lie under executive branch authority. The Constitutional Court dealt the Judicial Commission a setback on August 23 when it ruled that the Commission's oversight functions create legal uncertainty. Prior to the ruling, the Commission had criticized the performance of judges and engaged in tense battles with the Supreme Court over misconduct issues. Indeed, it was a group of about 31 Supreme Court Justices who filed the challenge that led to the Constitutional Court's decision. The Supreme Court suggested the Parliament and the President amend the Judicial Commission law. Although some observers had expressed unease with the Commission's possible impact on the independence of the courts, most anti-corruption advocates condemned the Constitutional Court's ruling. Almuzzammil Yusuf, a member of Parliament's Commission on Law, said on August 26 that he would encourage Parliament to revise the 2004 law on the Judicial Commission on a priority basis.

¶16. (SBU) Progress at the local government level has also been uneven. As the World Bank and other donors have noted, Indonesia's decentralization of power to local governments has also decentralized corruption. Local governments now spend 30% of the national budget without codes of conduct or modern financial control systems, permitting many to take advantage for personal gain. The East Java and Surabaya legislative bodies have enacted regulations allowing all MPs to keep official residences (even if they already have a house), and to receive generous transportation allowances for official trips, which have led to meetings at nearby "out-of-town" hotels to collect per diem. The creative accounting categories of "Tactical Fund," "Unexpected Expenses" and "Human Resources Fund" are also popular with legislators to bilk government funds. According to the Director of the Surabaya Legal Aid Institute (LBH) the East Java Parliament alone misused funds of around Rp 6.3 trillion (US \$682 million) from various on and off-budget sources in ¶2005.

¶17. (SBU) Indra Fauzi, Managing Director of the Regional Economic Development Institute (REDI), a Surabaya-based economic think-tank, noted that bureaucratic corruption is still a reality for foreign companies. In a study funded by the European Union, REDI looked at bribery practices against foreign companies in 2005 in East Java, Bali, South and North Sulawesi. REDI found that most European companies in these provinces were regular targets of illegal levies by local and provincial officials largely falling into seven categories: business permits, security for business activities, gifts to solve problems, official donations to social and political organizations, National day events, routine inspections of the companies, and official donations to government offices.

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Recent Noteworthy Corruption Cases

¶18. (SBU) Key recent anti-corruption cases include:

-- On August 25, 2006 the Anticorruption Court sentenced former Investment Coordinating Board (BKPM) Chairman Theo F. Toemion to six years' imprisonment and fined him Rp 300 million (US \$33,000) for misappropriating state funds for an investment campaign in 2003 and 2004. The court also ordered Theo to return Rp 23 billion (US \$2.5 million) within a month, or face the seizure of his assets.

-- The ICET prosecuted the former President Director of state-owned company PT Jamsostek, Ahmad Djunaidi, and its former Director of Investment, Andy R. Alamsyah, in connection with a scheme to embezzle employee money. The South Jakarta District Court sentenced both Djunaidi and Alamsyah to eight years. This case is now on appeal to the High Court.

-- The ICET prosecuted a South Jakarta District Court Judge, Herman Allositandi, and a court clerk, Mr. Jemmy Lumempau, for extortion of a witness. Judge Herman was sentenced for 4.5 years prison and the clerk for 4 years.

-- The ICET prosecuted a Vice President of Pertamina subsidiary PT Petral, Zainul Arifin, for using the firm's money to buy bonds from a Texas oil exploration company without obtaining required approvals. Arifin was sentenced to 4 years. This case is now on appeal to the High Court.

-- The ICET is prosecuting Pontjo Sutowo, the owner of Hilton Hotel in Indonesia, his attorney, Alim Hazi (currently Governor of Southeast Sulawesi Province), and several National Land Agency officials in connection with Hilton Hotel's attempt to obtain an illegal extension of Right to Build (HGB) Certificate. This case is now in Central Jakarta District Court.

-- Retired Brigadier Police General Samuel Ismoko was sentenced to 20 months prison for accepting a bribe of US \$27,000 while leading the probe into the BNI bank lending scam in 2004.

-- Businessman Adelin Lis, a fugitive from the North Sumatra Police since February 2006 for illegal logging and unpaid taxes, was arrested in Beijing and returned to Indonesia in September 2006. The media estimates the value of stolen timber from 16,000 hectares of protected forest to be Rp 4.3 trillion (USD 468 million).

-- On September 29, 2006, the Anti Corruption Court sentenced Erick Hikmat Setiawan, a former Consul General in Penang, Malaysia to 20 months in prison for charging illegal fees for passport processing from 2004-05 and abusing his position and authority.

-- The Denpasar, Bali State Court is trying 39 former (1999-2004) Bali MPs as suspects in corruption cases involving state funds.

-- The Chairman and Secretary of the East Java Election Commission are being tried in a Surabaya Court for misusing state election funds of around Rp 8 billion (US \$870,000).

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